

Polk 1

R E M A R K S

A telephone interview was held with Examiner Fridie on Thursday, July 28, 2005. The Examiner's courtesy and helpful comments during the interview are appreciated.

The first item of discussion in the interview related to the rejection of claims 11, 32, 33, 38 and 43 based on 35 USC 112, second paragraph. The Examiner agreed to withdraw the rejection. The second item of discussion related to the rejection of claim 1 under 35 USC 102 as being anticipated by Hara, US Patent 5,772,020. The Examiner restated the assertion made in the Office action, that the "descriptive matter media-holding spaces" of claim 1 correspond to elements 7S and 7 L, and that with such correspondence, the claim is anticipated. The Examiner expressed the view that adding structure to the claim would be helpful. Respectfully, applicant traverses, believing that additional structure in the claim is not required to overcome the Hara reference.

FIG. 1 of the Hara reference describes a page with three segments along the height of the page and two sections across each of the segments. Each segment includes means (tabs 5) to hold one storage element. A 3-D depiction of the FIG. 1 pages is found in FIG. 6. In the top segment, the section that is close to the left edge of the page has a structure that includes reference numeral 7L, 7Lb, 7La, and 9, and the section that is close to the right edge of the page has an identical structure with reference numeral 7S, 7Sb, 7Sa, and 9. Each reference numeral 7L refers to a tab element that has two portions, those being portions 7La and 7Lb. A 3-D depiction of tab element is shown in FIG. 7. Element 7L is formed within the page by creating a groove clear through the page around the circumference of tab element 7L except in two small connection portions of the circumference; those being designated by reference numeral 9. The same applies to tab elements 7S. (In the remainder of these remarks, reference is made only to tabs 7L, with the understanding that the same applies to tabs 7S.)

It is noted that there are two tab elements in each of 5 of the 6 sections. The left section of the mid segment does not include tab elements 7L (or 7S) but rather, it includes hook elements.

The intent is to twist/pull/rotate tabs 7L so as to break the connection portions 9 by which the tabs are attached to the page. When so twisted and broken off, the page acquires a cavity, and the user gains two free tabs. The removal of the tabs from the page

Polk 1

by breaking off portions 9 is permanent. The tabs cannot be reinstalled in the cavity, and neither is this the intent. Rather, the intent is to perhaps write something on the freed tabs and to slide them into a groove that is formed at the edge of the page by protrusions 3a and 3b, as shown in FIG. 7.

Since tab 7L can be written on and inserted into the groove created by protrusions 3a and 3b in the edge of the page, it would be proper for the Examiner to assert that tab 7L constitutes descriptive matter media. The Examiner asserted, however, that elements 7L and 7S correspond to the descriptive-matter-media-holding spaces. That, of course, could NOT be a valid assertion because tabs are not spaces.

It is highly likely that the Examiner meant to say that the space in the page where tabs 7L and 7S are situated prior to the tabs being broken off and removed are the spaces defined in claim 1. The remarks that follow assume that this is what the Examiner meant and address the matter as if the Examiner explicitly so asserted.

While such an assertion has some appeal in that it a certain space corresponds to a space defined by claim 1, it nevertheless is not a valid assertion.

It is not a valid assertion because when a Hara page is manufactured, there are no spaces. A space is only created once a tab is broken off and removed. Once the space is created, however, it is not a "descriptive-matter-media-holding space" simply because it cannot hold anything. Since the there is no space prior to a tab being broken off and removed, and since once a space is created by breaking off and removing a tab that space fails to become descriptive matter media holding space, it follows that the correspondence asserted by the Examiner (presumably) is in error and, therefore, claim 1 is not anticipated by Hara.

Moreover, even if one were to assume that the space that is formed by breaking off and removing a tab is a "descriptive-matter-media-holding" space, claim 1 is still not anticipated by Hara because claim 1 specifies one or more storage-device holding spaces and a holder arrangement (in the singular) that creates "separate descriptive matter media-holding spaces" (in the plural). Assuming the Examiner considers the collection of cavities in the Hara page that hold the tabs as the "holder arrangement" the claim limitation of holding spaces "in association with a respective one of said storage-device-holding spaces" is NOT MET by the Hara reference because each of 5 sections that that

Polk 1

are adapted to hold a storage device includes two spaces for holding a descriptive-matter media (2 tabs 7L and 2 tabs 7S), but the sixth section (the left section of the mid segment) includes NO descriptive matter media holding space, because it is a hooks 8 holding space. Consequently, that cavity in that segment/section is NOT a "descriptive matter media holding space" (emphasis supplied), and that means that there is no "descriptive matter media holding" space that is associated with each "respective one of said storage-device-holding spaces." Therefore, claim 1 is not, again, anticipated by the Hara reference.

Nevertheless, in an effort to expedite prosecution, and NOT in an effort to overcome the Hara reference, claim 1 is amended. As amended, claim 1 specifies the additional limitation of a holder arrangement that

is adapted to allow placing descriptive matter media into said spaces, and remove said descriptive matter media from said spaces, at will, without having the placed descriptive matter media fall out of said spaces during normal handling of said each page. (emphasis supplied)

Since the cavities in the Hara page in which tabs 7L and 7S are initially found are NOT spaces into which descriptive matter media can be placed and from which such descriptive matter media can be removed, at will, without such media falling out of such cavities during normal handing of each page, the cavities do not meet the limitations of claim 1. This constitutes an additional reason to hold claim 1 patentable over the Hara reference. Thus, there are two arguments which demonstrate that the unamended claim 1 is patentable over Hara, and an additional argument that buttresses one of those arguments.

In addition to claim 1, claims 2, 5, 6, 10, 29, 30, 32, 33, were also rejected under 35 USC 102 in view of Hara. First, it is noted that claim 10 depends on claim 11, which was NOT rejected under 35 USC 102 as anticipated by Hara, so an assertion that that claim 11 is anticipated by Hara logically cannot be supported. As for the other claims, they depend on claim 1 and, given that claim 1 is believed to not be anticipated by Hara, it follows that the dependent claims are also not anticipated by Hara.

Additionally, all the claims are believed to include limitations that are not described in the Hara reference.

Polk 1

Claim 2 specifies that each of the storage-device-holding spaces is a cavity. The storage-device-holding space of Hara is the space between tabs 5 and the face of the page. As is clear from FIGS. 10 et seq., this space is designed for storing square diskettes. This space, which is fully open on 3 of the 4 side perpendicular to the face of the page, and almost fully open on the 4th side, cannot be considered a "cavity."

Claim 5 specifies that

one or more storage-device-holding spaces are formed from a single cavity within said page that is partitioned

According to the assumed interpretation of the Examiner's assertion, the storage-device-holding spaces in the Hara reference are the spaces behind tabs 5 that intend to hold floppy disks. These spaces are not formed from a "single cavity within said page that is partitioned," and the Examiner has not even explicitly asserted to they do. Similarly, claim 6 specifies

one or more storage-device-holding spaces adapted to hold a plurality of storage devices, formed from a cavity encased in the page and an associated opening in the page's encasement of the cavity that enables said cavity to accept said storage devices (emphasis supplied)

This structural limitation is not found in the Hara reference, and the Examiner has not even asserted that it is.

Claim 29 is not anticipated by Hara because Hara shows no cover, and no fastener, and claim 30 depends on claim 29.

Claim 32 is independent. It is amended herein to make it clearer, and not in an effort to overcome the Hara reference. To make that clear, the following first considers the claim language prior to its amendment. Thus, prior to its amendment, claim 32 specified

descriptions-holding means that creates a separate descriptive-matter-media-holding space in association with each of the media-holding spaces, characterized in that placement of a descriptive matter medium into a chosen descriptions-holding space of said plurality of descriptions-holding spaces is unhindered by the presence of a storage device in a media-holding space that is associated with said chosen descriptions-holding space, and further characterized in that the association of all of the descriptions-holding means with their respective media-holding spaces is substantially the same physical association.

Polk 1

There are a number of salient features to the above-quoted limitation that are relevant to the Hara reference.

1. There is a descriptive-matter-media-holding space in association with each of media-holding spaces. In other words, there is a 1 to 1 correspondence between the media holding spaces and the descriptive matter holding spaces. As demonstrated above, this correspondence fails in Hara.
2. The descriptive-matter-media-holding spaces are characterized by their ability to accept the action of "**placement** of a descriptive matter medium **into**" (emphasis supplied) those spaces. In the Hara reference, elements 7L are not placed in the cavities from which there can be broken off. Rather, they are manufactured, or born, that way. The only "placement" would be if, for some reason, a user who broke off the tabs wanted to place them back into their cavities. Of course, such tabs are not able to stay in the cavities without some additional instrumentality, such as adhesive tape, so the spaces are *not* adapted for placement.
3. The descriptive-matter-media-holding spaces are physically situated so that the placement is "unhindered by the presence of a storage device in a media-holding space that is associated with said chosen descriptions -holding space." There can be no placement of tabs 7L and 7S into the cavities in which they are manufactured, as discussed above, and even if one wanted to place the tabs into the cavities, such placement would not be unhindered by the presence of a storage device in the media-holding space. To the contrary, if a diskette is situated behind tabs 5, such diskette would hinder the placement of tab 7L into the "descriptions-holding space" (as assumed to be the Examiner's assertion), i.e., the cavities formed by the breaking off and initial removal of the tabs.

For the above reasons, it is respectfully submitted that claim 32 was not anticipated by Hara even before its amendment. As amended, claim 32 changes the term "physical association" to "spatial association" because the latter is more descriptive. Regardless of which of the terms is employed, such association is not present in Hara for the reasons expressed in connection with claim 1. Amended claim 32 also makes it clearer that the placement of a descriptive matter medium is an act by the user, which even more clearly excludes the notion of manufacturing being equivalent to "placement."

Polk 1

Claim 33, also an independent claim, specifies

a layer element that is affixed to said page, over said storage-device-holding spaces, to create N pockets, each of said pockets being in readily apparent spatial association with a different one of said storage-device-holding-spaces.

There are a number of salient features to the above-quoted limitation that are relevant to the Hara reference.

1. It specifies a layer that is affixed to the page. The Examiner has not identified any layer that is affixed to the page, and there isn't one.
2. The affixed layer is over the storage device holding spaces. In the Hara reference there is nothing over the storage device holding spaces (which are defined by tabs 5 and the page portion below the tabs) that can correspond to a layer (affixed or otherwise).
3. The layer (which does not exist in Hara) over the storage device holding spaces (which also does not exist in Hara) forms pockets. Hara has no pockets at all.
4. There is a 1 to 1 association between the formed packets and the storage device holding spaces. No such correspondence is found – primarily because there are no pockets (formed from a layer affixed over the storage device holding spaces, or otherwise).

For each of these reasons, it is respectfully submitted, that claim 33 is not anticipated by Hara.

Independent claim 37 is similar to claim 1, and it is respectfully submitted that claim 37 in its unamended form is not anticipated by Hara for the reasons expressed in connection with claim 1. Also as with claim 1, claim 37 is amended to make it even more clearly unanticipated by Hara.

Independent claims 38 and 43 also have the 1 to 1 correspondence discussed above in connection with claim 1 which is missing from the Hara reference as presumably interpreted by the Examiner. Therefore, it is believed that claim 38 is patentable over the Hara reference. Claims 39-41 depend on claim 38.

Claims 11, 12, and 24 were rejected under 35 USC 102 as being anticipated by Chang, US Patent 5,823,573. Applicant respectfully traverses. The Examiner asserts that Chang has a first layer embodied in a backing sheet, a second layer embodied in pockets

Polk 1

1, 2, 3, 7, and 9, and a holder arrangement embodied by the extra open edge 8. Applicant respectfully traverses.

Regarding claim 11, it is amended to correct a typographical error that resulted in the last two word -- shape and size -- being omitted. It is further amended to accentuate the 1 to 1 correspondence that was already in the claim, and it is noted that this amendment is not introduced in order to overcome the prior art. This fact is demonstrated by the following argument. Claim 11 specifies N storage-device-holding elements in the second layer that are "substantially identical in shape and size." Of the pockets found in the reference and cited by the Examiner, pockets 1, 2, and 3 meet the claim 1 limitation, but that sets N to be equal to 3 (or at least 2). Claim 11 further specifies a holder arrangement that "creates N descriptive-matter-media-holding spaces." In the reference, there is only one open slit 8, which is NOT N matter-media-holding spaces (regardless of whether N is selected to be 2 or 3). Therefore, the Chang reference does not anticipate claim 11 in its unamended form, and certainly in its amended form. Claims 12 and 24 depend on claim 11.

Claims 3, 4, 7-9, 31 and 34 were rejected under 35 USC 103 as being unpatentable over Hara. Applicant respectfully traverses.

With respect to claim 3, the Examiner asserts that it would be an obvious design choice to make the different portions of the assembly have whatever form or shape was desired or expedient. That may be so, but only in the context of what Hara is doing. As indicated above in connection with claim 2, there is not a shred of similarity between the storage-device-holding space of Hara (comprising tabs 5 and the page below the tabs) and any cavities, and there is certainly no suggestion or motivation for make those spaces cavities, and in particular **cylindrical** cavities, as claim 3 specifies.

As for claim 4, which specifies a cylindrical cavity for the storage-device-holding space and an additional cavity that joins the cylindrical cavity, the arguments above apply. Moreover, since there is no first cavity, there is absolutely no reason to include another cavity. Therefore, it is believed that claim 4 is not obvious in view of Hara.

As for claim 7, relative to the Hara means for holding the diskettes -- which correspond to the storage devices of claim 7, there is simply no structure to which one can point to as a cavity with "an opening" that "has an elongated shape." The same is

Polk 1

true regarding claim 8 and claim 9. It is respectfully submitted that claims 7-9, which depend on claim 6, are not anticipated by Hara. If the Examiner intends to maintain the rejection, applicant respectfully requests the Examiner to explicitly point out where Hara has pockets for storing storage elements (if it's not the spaces that Hara designed for storing diskettes, or how those spaces can be considered "pockets," otherwise), elongated openings in those pockets, slits in those pockets, and the common angular orientation of those slits.

As for claim 34, there is no suggesting in Hara or any of the other references, to create 4 sided pages while creating a layer element that creates N pockets to be circular. Making this layer circular makes it easy to manufacture, it easily creates the pockets defined in claim 33, and it is visually pleasing. None of this is suggested by Hara.

Claims 13 and 16 were rejected under 35 USC 103 as being unpatentable over Chang. Applicant respectfully traverses. Since these claims depend on claim 11, which is neither anticipated nor is made obvious by the Chang reference, it follows that dependent claims 13 and 16 are not obvious in view of the Chang reference.

In light of the above amendments and remarks applicant respectfully submits that all of the Examiner's objections and rejections have been overcome. Reconsideration and allowance are respectfully solicited.

Respectfully,
Jonathan M Polk

Dated: _____

By _____

Henry T. Brendzel
Reg. No. 26,844
Phone (973) 467-2025
Fax (973) 467-6589
email brendzel@comcast.net

Claim 11 specifies N storage-device-holding elements, and a holding arrangement (in the singular) that creates N descriptive-matter-media-holding spaces (in the plural). For the reason presented above in connection with claim 1 also applies to claim 11 and, therefore, it is respectfully submitted that claim 11 is also not anticipated by the Hara reference.

Polk 1

true regarding claim 8 and claim 9. It is respectfully submitted that claims 7-9, which depend on claim 6, are not anticipated by Hara. If the Examiner intends to maintain the rejection, applicant respectfully requests the Examiner to explicitly point out where Hara has pockets for storing storage elements (if it's not the spaces that Hara designed for storing diskettes, or how those spaces can be considered "pockets," otherwise), elongated openings in those pockets, slits in those pockets, and the common angular orientation of those slits.

As for claim 34, there is no suggesting in Hara or any of the other references, to create 4 sided pages while creating a layer element that creates N pockets to be circular. Making this layer circular makes it easy to manufacture, it easily creates the pockets defined in claim 33, and it is visually pleasing. None of this is suggested by Hara.

Claims 13 and 16 were rejected under 35 USC 103 as being unpatentable over Chang. Applicant respectfully traverses. Since these claims depend on claim 11, which is neither anticipated nor is made obvious by the Chang reference, it follows that dependent claims 13 and 16 are not obvious in view of the Chang reference.

In light of the above amendments and remarks applicant respectfully submits that all of the Examiner's objections and rejections have been overcome. Reconsideration and allowance are respectfully solicited.

Dated:

8/9/05

Respectfully,
Jonathan M Polk

By


Henry T. Brendzel
Reg. No. 26,844
Phone (973) 467-2025
Fax (973) 467-6589
email brendzel@comcast.net